



## Premium Pay Provisions during COVID-19 Pandemic and FEMA Reimbursement April 2, 2020

**Members Affected:** Districts that approved premium pay provisions through board resolution, but that do not have board policy provisions on premium pay in DEA(LOCAL)

**Administrative Action:** Recommend premium pay provisions to the board, if the district will seek reimbursement for extraordinary labor costs from FEMA or other available federal sources

**Board Action:** Adopt premium pay provisions in DEA(LOCAL), if the district will seek reimbursement for extraordinary labor costs from FEMA or from other available federal sources

### Summary

[TEA guidance](#) recommends that districts revise board policy DEA(LOCAL) if the district's policy does not include provisions on premium pay and the district will seek reimbursement from FEMA for extraordinary labor costs for employees required to perform disaster-related emergency work during an emergency closing for COVID-19 or will seek reimbursement from other available federal sources.

### Background

In the event of a federally declared disaster, such as the COVID-19 pandemic, districts can submit reimbursement requests to the Federal Emergency Management Administration (FEMA) for certain extraordinary labor costs for employees who are required to report for duty during a closure in order to perform disaster-related emergency work in accordance with the FEMA [Public Assistance Program and Policy Guide](#) (PAPPG). In accordance with the PAPPG, FEMA determines eligibility for public assistance funding for overtime, premium pay, and compensatory time costs based on the district's written policy in place *before* the disaster, provided the policy:

- Does not make the wage payments contingent on federal funding;
- Is applied uniformly regardless of whether there has been a presidential declaration of a disaster; and
- Has nondiscretionary criteria for when the district activates various pay types.

### 1. What if our board did not adopt premium pay provisions in policy or through board resolution prior to the declaration of disaster?

The TEA guidance notes that based on the severity and geographic scope of the COVID-19 pandemic, the current FEMA requirement for a district to have written policy in place *before* the disaster is potentially subject to change. In addition, TEA notes that there may be other sources of federal reimbursement beyond FEMA that are not subject to the pre-disaster policy adoption requirement.



For these reasons, TEA recommends that every district that has adopted premium pay provisions should adopt appropriate policy. The intent is to be able to provide adequate documentation, including the district's written board policy, to FEMA and any other available federal sources of reimbursement. TEA also warns against retroactive application of premium pay provisions for work performed by district employees during the disaster but prior to board approval of such payments.

**2. What steps should our district take if the board approved premium payments through a board resolution, but DEA(LOCAL) does not include provisions on premium pay?**

If on an ongoing basis the district intends to provide premium pay for any future disasters, the district should add appropriate provisions to board policy to reflect that practice.

If the board authorized premium pay provisions for a limited time during the COVID-19 pandemic, the district may wish to adjust board policy to reflect approvals through resolution, especially if the district may seek reimbursement from federal sources.

**3. What if the board approved premium pay through a board resolution, but the district will not seek reimbursement?**

If the board approved premium pay through a board resolution, but the district will not seek reimbursement of premium pay through any funding source, revising board policy would not be necessary.

**4. What if the district has not and does not plan to authorize premium pay regarding the COVID-19 pandemic or future declared disasters?**

If the board does not plan to authorize premium pay regarding the COVID-19 pandemic or any future declared disasters, no revision to board policy is necessary.

**5. What policy provisions are appropriate for our district?**

Appropriate policy provisions will depend on the district's current DEA(LOCAL) and whether the board has already approved premium pay through a board resolution.

- A district that already has policy provisions on Pay During Closing and Premium Pay During Disasters specifying that premium pay applies during disasters declared by a federal, state, or local official or the board does not need to take further action. Retain all documentation about the policy adoption and any board resolutions in case the district needs to provide documentation at a later date to FEMA or another available federal source of reimbursement.
- A district in which the board approved premium payments through a board resolution but does not include provisions on Premium Pay During Disasters in DEA(LOCAL) **should contact the district's policy consultant at 800-580-7529 to discuss an appropriate policy draft to take to the board.**



Please note that the availability of funds for reimbursement after a disaster includes a case-by-case determination by FEMA based on all the eligibility requirements in the PAPPG and law. Districts should work with their attorney on these issues. See TASB Legal Services' [Personnel Issues During Epidemics and School Closings](#) for more information about reimbursements for labor costs from FEMA and other compensation issues during school closings.

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